Sri V. M. KUSHNOOR.—I move: Motion to pass.

"That the Karnataka Co-operative Societies (Amendment) Bill, 1979, as amended be passed"

Mr. SPEAKER.—Motion moved.

"That the Karnataka Co-operative Societies (Amendment) Bill, 1979, as amended be passed"

The Motion was adopted. and the Bill was passed as amended.

KARNATAKA LEGISLATURE SALARIES, PENSIONS AND ALLOWANCES (AMENDMENT) BILL 1979.

Motion to consider

SRI K. H. RANGANATH (Minister for Agriculture and Parlimentary Affairs)—I beg to move :

"That the Karnataka Legislature Salaries Pensions and Allowances (Amendment) Bill 1979 be taken into consideration".

The question was proposed.

† SRI C.M. ARMUGHAM (K.G.F.).— Sir, I have an objection to raise before the Bill is moved. This is Karnataka Legislature Salaries Pensions and Allowances (Amendment) Bill, 1979. Last year, we had passed one similar Bill, making proper provisions for both legislators and the Ministers. That Bill was passed in both the Houses. But now, you have brought before this House another similar Bill with amendments. Under what provision of the Constitution or Rules of Procedure the Hon. Minister is moving this Bill I want to know. After his reply, I will take up the matter again.

† SRI K. H. RANGANATH.—Sir, the hon. Member could have taken up this point afterhearing my initial remarks, or he could have raised this objection before the Bill was moved. The Bill which we have passed has become an Act. It received the assent of the Governor and has become an Act. On 26th December 1978, an ordinance was passed and now that ordinance is replaced by this Bill which has just now moved. Since we have got certain amendments to the Act, we have called it as the Karnataka Legislature Salaries Pensions and Allowances (Amendment) Bill, 1979.

SRI C.M. ARMUGHAM.—You have cleverly replied to my point.

SRI K.H. RANGANATH.—You must know that I am a lawyer.

Coming to the Bill, it is very simple. We thought that we should give some more concession. This Bill relates to few provisions of the Act of 1978.

It has been made clear in the statement of Objects and Reasons. We have enhanced conveyance allowance from Rs 500/- to Rs. 750/-. That was given retrospective effect. By this Ordinance we have made it prospective from 26th December 1978. Further mileage we had was one rupee; it is reduced to Rs. 0-75 np. Further, Sir, the hon. Speaker, the Hon. Dy. Speaker, the Hon. Chairman, have also been provided with residential quarters. Now we are going to prescribe the plinth area. Then there is a clause restricting the term it term for which he would have been member of this House. It is in respect of the Speaker, Deputy Speaker, Chairman, and Deputy Chairman. It is a very small amendment, Sir. I hope I have convinced the hon. member.

3-00 P.M.

SRI C.M. ARMUGHAM.—I am not able to follow what the Hon. Minister has said. Whether, I have myself confused the issue, or the Minister or the Government, I am not able to say. When did the Governor give assent ?

SRI K.H. RANGANATH.—On the 26th December 1978. The Ordinance was issued on 27th.

SRI C.M. ARMUGHAM,—I am asking: Is it a sort of conspiracy that took place between you and the Governor ? That is what I am asking. If you got the assent on 26th. Where is the need to get the amendment on the 27th ?

MR. SPEAKER.—The hon. member should not involve the name of the Governor.

SRI K.H. RANGANATH.—There is no such conspiracy. Let not the hon. member have that apprehension. Convyance allowance was given retrospective effect from 1972. After the assent was given by the Governor, Government thought that it was not necessary and therefore, they have made it prospective. Further we had to call this Session, from 18th January. Some time lag will have to be there. In an urgency we had to give effect to the Ordinance. Of course, the hon. member may say that instead of this Ordinance, we could have moved an amendment here. Since Government had earlier made the conveyance allowance have retrospective effect and Government now though it is not proper to give retrospective effect to it, and it has to be reduced and also government thought of reducing the travelling allowance, we had to do this.

SRI C.M. ARMUGHAM.—Why was it reduced?

SRI K.H. RANGANATH.— If we want to forego, should it be questioned by the hon. member? I want to eat only one meal a day instead of two meals. Should the hon. member take objection to it? We want to cut down the travelling allowance and also restrict the plinth area and also restrict the other things. Therefore, this amendment is brought. Beyond that there is nothing.

SRI C.M. ARMUGHAM.—The Chair said that I should not drag the name of the Governor. I am sorry.

SRI K.H. RANGANATH.—The convention is that we should not drag the name of the Governor. Government has brought the amendment slicing down the conveyance allowance and alse the travelling allowance and also fixing the plinth area and other facilities. we have voluntarily done that. I don't think it is proper to involve the name of the Governor. The hon. member has got always the Constitution with them and he has already put the papers and all those things but Sir, if it were to be from the other side then, it would have been all right but we have voluntarily done it, and it is a voluntary action on the part of the Government to cut down our travelling allowance and give effect to these things prospectively and not retrospectively.

SRI C.M. ARMUGHAM.—Sir, the hon. Minister gave some answer. But he has not thrown any light. This amendment and ordinance was brough about within one day's time.

SRI K.H. RANGANATH.—The amendment, are lifeless amendments and there is no necessity to throw light.

SRI C. M. ARUMUGHAM.—The hon'ble Minister has given some answer but he has not thrown any light on the question relating to amendments and the issue of Ordinance relating to Ministers Salaries Bill.

SRI K. H. RANGANATH.—The amendment are lifeless amendments. Therefore, there is no necessity to throw any light on them.

SRI C. M. ARUMUGHAM.—The procedure for passing the bills are laid down in the Constitution. If a Money Bill is passed by the Legislature, the Governor has no other alternative except to give his assent.

SRI K. H. RANGANATH.—I am on a point of order. It is only a very small and very limited one. If I had submitted to this House that he has not given the assent, then the question would arise. When I said that the assent has been given and the Act has come into force on the 26th December' 78 and the Ordinance has been issued on the

27th December, 1978, it is not proper to say that the assent was with held or was not given and therefore, it is not proper for the hon. Member to bring in the name of the Governor and to say that the assent was not given. That is my point of order.

†SRI C. M. ARUMUGHAM.—He has not raised any point and it requires no order. There are three kinds of Bills. Let him say that I am dragging the name of the Governor etc., I am only mentioning the provisions contained in the Constitution. In the case of bills other than the money bills, he has to follow certain procedures. I will read Article 200 of the Constitution of India which reads thus —

> "When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assets to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President.
>
> Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message reques ting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amend ments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom;
>
> Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of ihe Hight Court as to endanger the position which that Court is by this Constitution designed to fill."

When did we pass this Bill ? Why he withheld it for so many months ? Has he got any Constitutional provision to do it ? Under what provisions of the Constitution, he withheld it for so many months ? After all, the Governor has to act according to the provi sions of the Constitution. If he withholds the assent, then he must give the reasons. He should return with a message as soon as

possible after the presentation to him of the Bill for assent. He has given his assent in December only. I want to know why it was delayed ? Has he sent any message to this House ? Has he suggested any amendments to the Bill ? Has he called the Government and suggested any amendments to this Bill ? I want to know all the details. I feel the Governor cannot delay the giving of assent. If he delays it, then he must send a message with the Bill requesting the House or Houses to reconsider the Bill or any specified provisions thereof. Here In the Constitution, the proviso says thus:

> "Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would...."

MR SPEAKER.—That aspect viz the assent of the Governor is not before the House

SRI C. M. ARUMUGHAM.—He has got the right to refuse to give his assent. I am not saying that he has withhold his assent but he has delayed it. I am only asking the reasons for the delay. Under what provision of the Constitution, has he delayed it upto 26th December and on the 27th December, you have brought amendment through an Ordinance. Why ? Our Hon'ble Minister, Sri K. H. Ranga nath, has said that the Ministers themselves wants to reduce their T. A. and D. A. This Bill relating to the salaries if Minister and Legislators was not discussed in this House. Everybody has agreed with this Bill but outside. it has entertained lot of criticisms. Not only officials but even politicians can also become Governors in our country. Even an Ex-Minister can become a Governor. As a Minister, he gets Rs. 1500 and after he becomes the Governor, he gets Rs. 5,500 Our's is not a socialist country or a socialist society which looks after the affairs of an individual when he retires from the service. Therefore, here everyone looks after himself and not the State. Therefore, the salary is fixed for the Ministers. A Minister is in a coveted position. Lot of temptation is there. Therefore, they have fixed the salary and pension. For the Governor also, salary, pension and other benefits are provided. Even if he works as Governor for one or two years, then also he gets the pension and other benefits. A Minister has to perform certain duties efficiently and also to take lot of responsibility. Therefore, he should not feel what is going to happen on the next day when he retires as a Minister. That is the reason why on the collective wisdom of 224 M. L. As and 63 M. L. Cs, the Bill was passed.

They in their wisdom passed the Bill, No doubt, somebody may say, what is the salary and all that ? Article 158(3) provides.—

"The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule."

Then, the Second Schedule (Part A) provided that a Governor of all State shall reserve Rs. 5,500 as emoluments per mensem. It is also provided.

"There shall also be paid to the President and to the Governor of the States such allowances as were payable respectively to the Governor-General of the Dominion of India and to the Governors of the corresponding Provinces immediately before the commencement of this Constitution,

The President and the Governors of the States throughout their respective terms of office shall be entitled to the same privileges to which the Gove nor-General and the Governors of the corresponding Provinces were respectively entitled immediately before the commencement of this Constitution."

The Constitution prescribes the salary of a Government, of a President and of Judges.

MR. SPEAKER.—What exactly is the argument? Is the hon. member questioning the provisions of the Constitution?

SRI C M. ARUMUGHAM.—The legislators in their wisdom fixed certain salaries and pension for the Ministers. To reduce it and that too after taking such a long time is not fair. The Constitution fixes the salaries for the Governor and the Judges. Since there is no constitutional provision for the fixation of salaries of legislators and Ministers the legislators in their wisdom decided unanimously that the salary of a Minister must be so much and his pension when he retires must be so much. Similarly they decided about the salary, pension and other facilities of the legislators The Bill regarding this did not receive the assent of the Government immediately; It was delayed. There is no provision in the Constitution to delay it This is the point I am making out. He could have sent a message about reducing the salaries and pension of the Ministers and Members. Instead of doing that it was delayed. How and under what provision of the Constitution could a Bill unanimously passed by both the Houses be delayed like that? One may not agree to increase the salary because there are some people who are getting only Rs. 1-30 per day as wages and there are servants in the State getting

Rs. 100 or 200 per month and have to pay heavy rents of Rs. 20 to 100 and also meet the expenditure towards education, medical facilities, etc One may raise this question and I welcome it. But when a politician or a Minister or a social worker retires, our society or the Government does not look after him. Politicians are more essential because Government means politicians. Officers cannot join together and form Government. A Minister is essentially a politician and a Minister means Government. To be able to look after himself when he retires from politics this House fixed his pension. Some may say you have doubled the salary of the members. I do not know whether you were a member of the Representative Assembly. In those days what were the emoluments of the members. They will get first class fare to and fro, they were put up in Guest Houses and given free food. They can go to the vegetarian canteen and take whatever they want and then also go to the non-vegetarian canteen and take mutton, chicken and everything. They were receiving no salary. Besides in those days to become a member he must be an income-tax payee or must own land or property That is not so now; anybody can contest the election If the Governor were to nominate any member to the Representative Assembly, he would nominate only a rich man even among the Scheduled Castes. Even the Maharaja used to nominate only rich men. That is not the case today. There are so many M.L. As who have come to this Assembly for the first time; they were nobody before. It is therefore necessary to give them certain salaries and emoluments. As far as you are concerned, you may contest the next election and win it too. But some members may not come back and during the five years they have served as M.L. As they might have lost touch with their profession. In its wisdom the House thought that all M.L. As are not rich, do not own lands or bangalows or cars and therefore something should be done. Probaly some of them may not own even a bicycle. So the House that they must be given some salary and pension. Of course that is criticised by others. In countries like Russia if a person is not able to work he gets a penson; if a person is not able to move about he gets a conveyance. Here it is not so. Here it is big fish eating the smaller ones So, the House thought that each M.L.A. must have a pension. I am not saying whether it is correct or not because I was also a party to it. What I am asking is, is it fair on the part of the Governor to keep it so long ? Without bringing to the notice of the House what prompted the Government to bring an ordinance within one day's time after it was assented to. On the 26th the Bill gets the assent of the Governor and on the 27th the Government issues an ordinance ? I am not very much concerned about increase or decrease. The Government has no moral right to

increase or decrease the amount because it is a matter concerning the House. It is a disrespect shown to the House and it only betrays the arrogance of the Government to neglect the wishes and interests of the legislators. Nothing would have happened if they had waited till the House met. By issuing this ordinance the Government have displayed that they are equal to all the members of the Assembly and Council put together. How can that be? After all you are the creature of the Assembly and the wisdom of about 300 members of the Assembly and Councils more then the intelligence or knowledge of any individual. One man cannot compare himself with the House and say that he possesses so much wisdom. I may be an innocent man but there are stalwarts. The Bill was drafted by the Law Department and the Assembly and Council have gone through it in detail and have given the decision. But overnight you have brought an ordinance? Why? What compelling reason was there? On that day when the Bill was passed there were amendments and with mutual trust and understanding between the opposition and the ruling party, we were able to come to a decision. Therefore, I would like the Chair to enlighten me on the following points.

(i) What is the provision under the Constitution under which the Governor can delay giving his assent to the Bill for so many days?

(ii) When the matter pertains exclusively to members of this House, how can the Government take any action to issue ordinance?

(iii) The Bill got the assent on the 26th and under what provision of law the Governor issued an ordinance on the very next day and who advised them?

By bringing in this Bill probably the Government has thought that there may not any objection because members from the opposition are not there excepting me. But this is a matter pertaining to the dignity of members of this House. The desires of members must be implemented and wishes of the members must be respected. So I strongly oppose the Bill on two grounds. One the assent to the Bill is delayed and another after getting assent, an ordinance was issued the very next day. This is an extraordinary power taken by the Government which I oppose.

† SRI HARNAHALLI RAMASWAMY (Gandsi):—Mr. Speaker, there is not much to say in this Bill except to make to the subject initiated by the hon. member who spoke just now. The Governor can adopt three methods when a Bill is passed and sent to him for assent. He can either give assent or refuse and if the question relates to abridgement of the High Court or judiciary he can reserve the Bill for the

assent of the President. As has been rightly stated there was no necessity for delaying in giving assent to the Bill. As all of us know the office of the Governor is an exalted offiice. Nevertheless the Governor has to function in accordance with the provisions of the Constitution. He has to act on the aid and advice of the Council of Ministers. Except on matters in which he could use his discretionary powers, for example, where there is a question as to whether the Leader of the house, the Chief Minister enjoys the support of the majority of the members, then the discretion vests with the Governor to take a decision depending upon the circumstances of the case. At that time it may not be necessary to take aid and advice of the Council of Ministers. In all other matters, the decision should be on the aid and advice of the Council of Ministers.

The next point would be, there is what is called the convention. Though the Constitution says that the Governor has got the power to with hold assent-the power is there constitutionally--but sometimes, from the time the Constitution came into force, even before the Constitution was there in 1935 Government of India Act, the Governors and the Governor-General used to act on the basis of convention and they would give consent to whatever the Legislature decided. I would only caution the Government and the Council of Ministers to always give proper aid and advice to the Governor so that he should act upon the aid and advice of the Conucil of Ministers. Many a t mes what happens is, in matters concerning Universities, etc., I am not commenting upon the office of the Governor-the functions of the Council of Ministers should be to see that their aid and advice to the Governor is carried out, to carry out the spirit of the Constitution. In this case, the Government and the Treasury benches have adopted a policy of not creating any conflict and have adopted a via-media, and after discussion they have taken the step of introducing this amendment in the interest of all concerned.

While welcoming this amending Bill, I would say that in all fairness to the members of this House and the members of the Legislative Council, normally unless there is somthing substantial causing injury to the public or something concerning the law and order situation the w shes of the Legislature should be respected and the wisdom, as my friend Sri Arumugham has rightly put it, of an individual should not over-ride the wisdom of the electorate or of the Legislature.

MR. SPEAKER :—Hon. member Sri C.M. Arumugham raised a point about the time limit. Under the Constitution there is no time limit prescribed for giving assent. I do not feel there is any question of delay.

SRI C. M. ARUMUGHAM :—Sir, what does it mean by 'as soon as possible'?

MR. SPEAKER :—That is a matter for interpretation.

† SRI K. H. RANGANATH :—Sir, the hon. member Sri Arumugham has himself defined 'as soon as possible' to mean, may be a day, may be a month, may be 3 months, may be 6 months and may be one year. Therefore, the time taken by the Governor to assent comes within the definition now given by the hon. member Sri Arumugham. There is no time limit. Somebody had taken the matter to the Court and the Court has also decided. They say that there is nothing in the Constitution to direct the assent of the Governor or the President, as the case may be, during the life time of the Assembly which passed the Bill. This was stated in the case of Thirumala Vs the State of Kerala. So, there is no time limit.

My friend Sri Arumugham made out another point, viz., that it is this House that has passed the Bill and therefore we have no right amend it. Sir, as you are aware and as hon. members are aware the Bill always eminates from the Treasury Benches. It is brought before the House in the form of a Bill and then it is passed. So, the Government or the Party which introduces the Bill, normally will have the power also to introduce an amendment. That power has been excercised. It is not as if the House has fixed the salary. It is the Government, it is the party that thought of fixing up the salary and therefore introduced the Bill.

Now the Government thought that it was not wise on its part to give retrospective effect and therefore it has brought the amendment. The hon. member was questioning the hurry with which the amendment was brought. He said that on the 26th the assent is given and on the 27th itself we have brought the Ordinance, and that we could have brought an amendment to the main Act itself. That was his contention. He further said that we should not have misused the article by introducing the Ordinance the very next day itself. We have given retrospective effect in the Bill. It was assented to on and published the 26th December in the Gazette. So, it would have become an Act and we would have given scope to ourselves to draw the conveyance allowance retrospectively from the 26th itself. Since we thought that we should not give effect to the drawal of the conveyance allowance from 1972, and if we do not take some time in bringing out the Ordinance we would have given scope for the drawal of the sum. We wanted to prevent that and the thinking of the Government was not to draw this sum. It was that factor that induced the Governme it

to introduce the Ordinance on the 27th. Beyond this, there is nothing. Let not the hon. member Sri Arumugham think that we have misused Article 230 under which the Ordinance is brought, and let him also not think that it was delayed.

The other thing is, if there was no assent of the Governor, even after both the Houses passed the Bill he could have referred it to the President. He has also got that power. But he has not done that. He has given his assent on the 26th December 1978.

I hope I have convinced the hon. member.

MR. SPEAKER.—The question is:

"That the Karnataka Legislature Salaries, Pensions and Allowances (Amendment) Bill, 1979 be taken into consideration."

The motion was adopted.

CLAUSE 2 to 14

MR. SPEAKER.—The question is:

"That clauses 2 to 14, both inclusive do stand part of the Bill."

The motion was adopted

Clauses 2 to 14 both inclusive were added to the Bill.

CLAUSE 1 etc.

MR. SPEAKER.—The question is:

"That clause 1, the Long Title, the Preamble and the Enacting Formula do stand part of the Bill"

The motion was adopted

Clause 1, the Long Title, the Preamble and the Enacting Formula were added to the Bill.

Motion to pass

SRI K.H. RANGANATH.—I move:

"That the Karnataka Legislature Salaries, Pensions and Allowances (Amendment) Bill, 1979 be passed."

MR. SPEAKER.—The question is:

"That the Karnataka Legislature Salaries Pensions and Allowances (Amendment) Bill, 1979, be passed."

The motion was adopted and the Bill was passed,

ANNOUNCEMENT

Arrest and Release of Members